

16<sup>th</sup> December 2022

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## **WELSH GOVERNMENT CONSULTATION ON REFORMING NON-DOMESTIC RATES IN WALES**

### **Purpose**

- 1 To seek Leaders' endorsement of the proposed WLGA response to Welsh Government's consultation on a 'Reforming Non-Domestic Rates in Wales', attached at Appendix 1.

### **Background**

- 2 The Welsh Government's Programme for Government sets out the ambition for a fairer, greener, and stronger Wales. These principles form the basis for any potential changes to the Non-Domestic Rates (NDR) system. There is also a clear commitment to stabilise tax devolution and legislate where possible to ensure decisions are taken and scrutinised in Wales, rather than in the UK Parliament.
- 3 The Welsh Government currently has a number of levers available to change the way the NDR system operates, but the range and flexibility of these levers is limited through legislative opportunities and operational constraints. The reform agenda seeks to address these limitations, providing the Welsh Government with opportunities to adapt and renew the system for Wales, specifically designing components to reflect our tax-base.
- 4 This consultation sets out the Welsh Governments proposals for reforms to the NDR system in Wales and is a partner to the Fairer Council Tax consultation, a WLGA response to which was agreed at the WLGA executive meeting on 30 September 2022.
- 5 Alongside the benefits of a more effective and policy-driven local taxation system for Wales as a whole, the proposals will result in a more responsive and efficient system for ratepayers, which is designed to reflect the economic and social conditions long into the future. The reformed system will also ensure that ratepayers make a fair contribution and will support a reduction in the instances of tax avoidance.
- 6 The consultation is split into four key areas of consideration, the first area details proposals for more frequent revaluations for NDR, including a range of measures that would be necessary to make this possible, including duties that would be placed on taxpayers to improve the flow of information into the Valuation Office Agency to support them in maintaining the accuracy of rating lists.
- 7 The next area of the consultation deals with reliefs and exemptions and seeks views on whether the current system of reliefs and exemptions remains effective and fit for purpose as well as looking at what legislative flexibilities could be given to Welsh Government to remove, vary and introduce reliefs in a way that best supports Welsh businesses in the longer term.

- 8 These questions dovetail into considerations around the multiplier, including whether Welsh Government should be given the ability to vary the multiplier for properties of different use, rateable value and geographical location in order to align with wider Welsh Government policy priorities. There is the potential that the support currently provided through reliefs and exemptions could be better and more effectively delivered through a system of variable multipliers.
- 9 The last key area for consideration in the consultation seeks views on ways to improve the administration of the valuation and rating list, including the potential for introducing a general anti-avoidance rule and providing additional powers for local authorities to counteract NDR avoidance effectively.
- 10 As with its partner consultation “A Fairer Council Tax”, the consultation document also gives the ability to provide feedback on the potential for Welsh Government to explore longer term considerations for raising local taxes, such as a local land value tax.
- 11 The WLGA’s proposed response to the questions posed in the consultation is attached at Appendix 1. The ambitious package of reforms to local taxes in Wales including Non-Domestic Rates is welcomed by WLGA and overall, there is broad support for the NDR reform agenda along with any proposals that ensure decisions that affect Welsh businesses and the Local Authorities that support them, are taken and scrutinised here in Wales.

## **Recommendations**

### **12 Leaders are asked to:**

- 12.1 comment on and endorse the WLGA’s proposed response to the Government’s ‘Reforming Non-Domestic Rates in Wales’ consultation.**

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Rebecca Evans MS  
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Dear Minister,

### **Consultation: Reforming non-domestic rates in Wales**

Thank you for the opportunity to respond to this important consultation. Our response has been informed by our members and was discussed at the WLGA Executive Meeting on 16 December 2022.

Overall, there is broad support for the proposals to allow Welsh Government the flexibility to make changes to the Non-Domestic Rates system through secondary legislation in the future. This would provide the legislative framework to deliver a business rate system that is more agile and responsive to the economic conditions and needs of businesses in Wales.

The proposals would also improve fairness for ratepayers through more frequent revaluations and provides the Welsh Government with opportunities to vary aspects of the scheme in support of wider Welsh Government policies as part of its Programme for Government and Co-operation Agreement.

Our detailed response to the specific questions is appended to this letter.

Yours sincerely,



**Councillor Rob Stewart**  
(WLGA Deputy Leader and Economic  
Spokesperson)



**Councillor Anthony Hunt**  
(WLGA Spokesperson for Resources)

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### Question 1

Do you agree revaluations should occur at least every three years in future, to maintain fairness in the system by ensuring valuations are updated more often to reflect changing economic conditions? What are your reasons for your answer?

Yes, most of our members would support revaluations every three years, as this will provide a business rate system that is more agile and responsive to change; allowing economic conditions that have driven changes in market values to be reflected more quickly in business rate liabilities.

A more frequent revaluation cycle would also improve fairness for ratepayers by increasing the frequency at which the burden of business rates is redistributed between ratepayers to reflect changes in relative values.

A lot of businesses operate across borders, so it would be important that if a three yearly revaluation cycle was implemented, that the start and end date of these cycles aligned with other areas of the UK to avoid complications for businesses and the Valuation Office Agency.

### Question 2

Do you think revaluations should occur more frequently than every three years? If so, how often would you suggest?

We welcome the proposals to remove the need for primary legislation to set an alternative revaluation date or change the default cycle frequency in the future. This will provide the Welsh Government with the autonomy it needs to ensure the revaluation process best supports Welsh ratepayers and Billing Authorities.

Whilst the increased frequency of revaluations is welcomed; members have raised concerns that the Valuation Office Agency compressing its current 5-year workload into a 3-year window poses risks to the accuracy of the revaluation exercise and inevitable appeals work that would follow.

Even under the current 5-year cycle, challenging economic climates has meant it necessary to delay revaluations to provide stability for ratepayers. Similarly, it is felt that having revaluations too frequently would destabilise the tax base, create uncertainty for businesses by undermining their medium-term financial planning as well as have the potential to introduce additional administrative difficulties for Local Authorities.

It is also worth noting that a substantial number of businesses fall under the threshold of paying business rates so for most businesses the revaluation is purely an administrative exercise and does not affect what they pay.

### Question 3

Do you think the gap between the antecedent valuation date and the revaluation

taking effect should be less than two years, if possible, in future?

Yes, this would be welcomed if this is possible but as the main purpose of the antecedent valuation date is to set a common valuation date it is not felt that this is a critical factor especially as there is anecdotal evidence that the existing two-year gap appears to be a challenging target for the Valuation Office Agency i.e., resources taken away from resolving outstanding appeals to assist with the revaluation exercise.

With that in mind a one-year gap is too tight to achieve, but in future consideration could be given to setting the antecedent valuation date 18 months before the revaluation. This would mean a September date being used for the antecedent valuation date, which would align with the inflation factors used to uplift other government spending and budgets.

#### **Question 4**

Do you have any views on the proposals to create a duty on ratepayers to inform the VOA (Valuation Office Agency) if certain information relating to the hereditament changes, and the new duty to provide annual confirmation, support more frequent revaluation and the maintenance of accurate rating lists?

Our members support these proposals in principle. They will ensure the VOA has the information required to compile and maintain an accurate list, will contribute to more accurate and timely billing for ratepayers and will result in updates to rateable values being made closer to the actual change in the property, reducing the need for retrospective billing. The proposals would also align business rates with other taxes, where self-declaration requirements for taxpayers are standard.

The measures would also provide the VOA with a more robust and up-to-date evidence base leading to more reliable valuations and reducing the need for ratepayers to appeal their property valuations.

Greater accuracy of the list would also mitigate the risk of unplanned revenue loss from appeals, improving stability of financial planning by Local Authorities and all these improvements combined could be used to underpin more frequent revaluation cycles in the future.

However, there are also concerns that the level of compliance with these proposals would be difficult to predict and this could present a challenge to resources if compliance is to be enforced robustly. People and businesses increasingly expect all areas of government to be “joined up” and expect to only have to “tell us once.” These proposals could undermine the current compliance with reporting changes to Local Authorities.

There would be a need for further discussions between the Valuation Office Agency and Local Authorities to clarify the obligations of each going forward, to establish clear lines of communication and data sharing and to develop and communicate a

consistent message to ratepayers in relation to their obligations to both the Valuation Office Agency and the Local Authority.

### **Question 5**

Do you have any views on the proposals for a proportionate compliance regime to support the duty to provide information? In particular, do you consider the proposed penalties to be fair and proportionate?

A high rate of compliance with any new duties would be fundamental to realising the benefits of a new system. Without a consistent flow of accurate and timely information to the VOA, their ability to provide more reliable valuations and to support more frequent revaluations will be compromised. We therefore support the implementation of a compliance framework.

We believe the current proposals strike the balance of proportionality and avoid placing an unnecessary burden on businesses, particularly during the initial period of familiarisation and adjustment. The penalties proposed provide parity with those elsewhere in the tax system, reflect the seriousness of supplying false information and recognises that non-compliance which leads to a significant under-assessment of rateable value, should be subject to higher tariffs.

However, it is felt that consideration may want to be given to the cap on summons costs, which has been capped at £70 for many years. As it stands, the proposals would see a ratepayer facing a significantly higher penalty for not registering with the Valuation Office Agency than they would receive for not paying their bill.

It is worth noting that many ratepayers in Wales qualify for 100% rate relief and have not had to pay business rates for several years. Consequently, businesses often overlook the requirement to advise the local authority of taking on a new lease or their vacation. Therefore, any system requiring the supply of information of changes to the VOA will also require a change in ratepayer behaviours which will need to be encouraged and supported by an awareness campaign, improvement in the system to make the process of providing information easier for the ratepayers and sufficient flexibility and discretion in the system to allow the VOA to operate compliance activities fairly and with due regard to individual circumstances. There is concern from members about the capacity of the VOA to do this whilst also condensing their workload into smaller revaluation cycles.

### **Question 6**

Do the proposed timescales provide ratepayers with enough time to meet their obligations? If not, under what circumstances would this not be possible?

The timescale of 60 calendar days is considered fair and reasonable and our members cannot think of any circumstances under which the proposed timescales would be inappropriate.

### **Question 7**

Do you have any views on the proposal to undertake a review of relief schemes and any views on how their effectiveness should be considered? What factors should a review take into account?

WLGA and its members would welcome a comprehensive review of the wide-ranging rate relief schemes to ensure they remain effective and appropriate, that they reflect the current demographics and economic landscape and that they provide targeted responsive support to the Welsh business sectors that are in most need at any given time.

In undertaking this review it would be important to test each relief against several factors including, ease of administration for the Local Authority, take up of the relief by ratepayers, scope of tax avoidance, cost of administering and providing the reliefs, the ability to target the intended ratepayers and the need of ratepayers to advise local authorities of changes to occupation/vacation.

Potentially any review of reliefs could dovetail into the introduction of a dual rate multiplier scheme and simplify the extent to which relief schemes are applied.

It is important that new relief schemes are considered to support new enterprises and encourage job growth. For example, under the current system there is a lack support for new business start-ups, especially those that fall outside of rate relief support for businesses operating from small premises. This can be a barrier for businesses wanting to take on larger properties.

### **Question 8**

Do you have any views on our proposals to enable the Welsh Government to amend, remove and create new statutory reliefs by secondary legislation to align to policy priorities?

We would welcome any proposals that allow Welsh Government to be more responsive in providing support to businesses and would support the required legislative amendments being made to provide Welsh Government with the flexibility to provide this through secondary legislation in the future.

Utilising secondary legislation could enable faster delivery and more bespoke schemes tailored to meet the economic conditions and needs of businesses in Wales.

### **Question 9**

Do you have any views on the proposal for the Welsh Government to have greater flexibility to provide for exemptions by secondary legislation, to align to policy priorities?

We support Welsh Government having greater flexibility to use secondary legislation to provide exemptions to meet the changing economic landscape and policy priorities.



### Question 10

What is your view on the proposal to give local authorities greater flexibility to award retrospective discretionary relief?

We would welcome greater flexibility to use the award of discretionary relief retrospectively beyond the current restrictions of six months after the end of the financial year. Our members have advised that there are often cases that should benefit from more discretionary relief than the current legislation allows, and that greater flexibility would allow for alignment of discretionary relief with mandatory relief. Where a ratepayer is proven to satisfy the eligibility criteria for a specified period, this would allow Local Authorities to award all relevant reliefs, resulting in more accurate bills and ensuring that ratepayers are only obligated to pay bills that are reflective of actual circumstances.

### Question 11

What is your view on proposals to provide the Welsh Government with the ability to vary the multiplier for properties of different use, rateable value and geographical location, to align to policy priorities?

WLGA and its members strongly support the proposal to provide Welsh Government with the ability to vary the rate multiplier for businesses here in Wales.

It is seen not only as a tool to assist Welsh Government with policy priorities, but an opportunity to quickly implement and target support for certain businesses without the need of new reliefs or temporary reduction schemes. Delivering support to business via a lower multiplier can be quickly built into systems and would be easy to administer.

In considering multipliers more generally however, it is felt these should only be used where the multiplier can be linked to a well-defined parameter i.e., a property's rateable value or even its location.

It could become more problematic if it was linked to a parameter that was more subjective or difficult to verify or evidence e.g., the use of a property. This could result in inconsistency of applications across Welsh Councils, will be more burdensome to administer and will inevitably lead to disputes. Any changes to the multiplier and links to parameters will need to be considered alongside the potential for these to create new tax avoidance behaviours/schemes amongst ratepayers.

### Question 12

Do you have any other suggestions for parameters that could be considered in varying the multiplier?

If Welsh Government consider introducing a dual multiplier, properties eligible for the alternative multiplier should be selected by reference to the rating list e.g., by analysis code or parish. This will allow Local Authorities to balance the number of

properties for each multiplier back to the number and value of hereditaments in the rating list, allowing Local Authorities to balance the debit raised at annual billing and demonstrating the value of the rateable value for each category of multiplier.

### **Question 13**

Do you have any views on proposals to ensure that changes in economic factors, market conditions or changes in the general level of rents are addressed through more frequent revaluations, rather than as material changes of circumstances between revaluations?

Our members agree that more frequent revaluations every three years would allow most changes in economic factors, market conditions or levels of rent to be reflected more accurately and regularly, which would reduce the need on most occasions for there to be a consideration of material changes between revaluation assessments.

This would allow the mechanism of “material changes of circumstances” to be retained only for its traditional and intended purpose, such as physical changes to property or locality. If there are urgent instances where support might be required other relief schemes could be used to address these issues.

It has also been suggested that the ratepayer should retain the right to appeal where the hereditament has been subject to a material change of circumstances, as it was not felt reasonable to expect them to wait for up to 3 years for any concerns to be addressed.

### **Question 14**

Do you think the proposed changes to completion notice procedures will help to ensure all relevant properties are listed for NDR in a timely manner?

Yes, there is a consensus amongst members that serving of completion notices on previously existed properties by the local authority would improve the efficiency and effectiveness of such cases being brought back into the list quickly and reduce the opportunity for cases to be overlooked.

It is also acknowledged that there is a weakness in the current system when buildings are undergoing refurbishment but remain in the list and this proposal should resolve that problem and bring consistency in how new, previously existed, and improved properties are brought into rating list.

### **Question 15**

Do you have any views on proposals to improve administration of the central rating list?

It is hoped that the proposed changes will improve the administration of The Central Rating List and give rise to improved co-ordination of properties moving between lists.

### **Question 16**

Do you have any views on proposals for a general anti-avoidance rule for NDR in principle?

Due to the amount of money estimated to be lost every year, WLGA and its members would welcome, in principle, any proposals aimed at deterring rate avoidance. However, consideration would need to be given as to who would be best placed to enforce a general anti-avoidance rule. These cases tend to be resource intensive and require a level of expertise that would leave many Local Authorities in a difficult position to contest successfully.

### **Question 17**

Do you think local authorities should have more powers to enable them to counteract NDR avoidance effectively?

Local Authorities would welcome more powers, as well as additional funding, to tackle avoidance schemes. However, as already discussed, there is concern that Local Authorities may not have the will, expertise, and resources to pursue cases. This is especially poignant when considering the potential returns of successfully contesting cases as any successes get paid into a central pool to which some authorities are net losers.

It could be more cost effective use the proposal for additional Welsh Government legislative powers to review reliefs and exemptions that could address areas of avoidance e.g., replacing the 3- and 6-month empty exemptions with a reduced empty rate charge would remove the avoidance tactic of intermittent occupation.

### **Question 18**

What are your views on taking an alternative approach, such as a local land value tax, to raising local taxes, over the longer-term?

The current business rates system is generally a tried and tested property-based tax, with origins going back to the 1600's, that tracks the value of the property. It is a well collected and well understood tax for that reason, although the myriad of reliefs and exemptions made available in recent years has made it more difficult for the general ratepayer to understand.

Despite yields being high there is still too much avoidance of the tax and for this reason it is worth exploring other forms of local taxation including a Local Land Value Tax.

However, before alternative tax systems are introduced, it is imperative that the current system is improved in the short term, to ensure the tax system remains fair and proportionate.

WLGA and its members would also call on Welsh Government to consider the introduction of a local rate retention scheme which incentivises Local Authorities to grow the local economy and retain an element of the tax base growth.

### **Question 19**

We have asked a number of specific questions about the reform of NDR. If you have any related points which we have not specifically addressed or if you wish to comment on other aspects of NDR reform, please use this space to record your comments.

Businesses, through the development of the small business rates scheme particularly, are no longer used to paying any business rates or even advising the authority when they move in or move out. A system where everyone pays something may restore a greater degree of accuracy in the database of business premises and provide a greater perception of fairness amongst the public that businesses contribute their fair share of local taxes.

It is also worth noting that currently, appeals in respect of business rates other than ratable value appeals are dealt with in the magistrate's court. It would be appropriate to consider using the Valuation Tribunal for appeals on business rates in the same way as they are used for council tax appeals to provide parity across the two devolved taxes.

### **Question 20**

The Welsh Government would like your views on the effects these proposals would have on the Welsh language, specifically on:

1. opportunities for people to use Welsh; and
2. on treating the Welsh language no less favourably than English.

Members had no comment to make.

### **Question 21**

Please also explain how you believe the proposals could be formulated or changed so as to have:

1. positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language; and
2. no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Members had no comment to make.